

MATTER OF M/V OCEANIC AMITY

In Fine Proceedings

DET-10/10.129

Decided by Board November 7, 1969

- (1) Statutory authority exists under sections 254(a) and 252(b) of the Immigration and Nationality Act for the reinspection at a subsequent U.S. port of call of the crew of a vessel sailing coastwise and for revocation of conditional landing privileges previously granted following inspection at first port of call.
- (2) Notwithstanding notice to detain and deport was not served on the responsible parties and notice of revocation of landing privileges was not served on the alien involved in accordance with 8 CFR 252, liability to fine lies under section 254(a)(2) of the Act for failure to detain aboard the alien crewman involved since the record is replete with evidence that the substance of the regulation was fully complied with; further, the bringing of fine under section 254(a)(2) rather than section 254(a)(3) of the Act is not a fatal defect to imposition of fine since the carrier was well aware of the nature of the violation with which it was charged; was adequately apprised of the factual basis for its liability; and had ample opportunity to intelligently protest, which it did.

IN RE: M/V OCEANIC AMITY, which arrived at the port of Detroit, Michigan, from foreign, via another United States port, on August 5, 1968. Alien crewman involved: WEI-TAO (DAU) KIANG.

BASIS FOR FINE: Act of 1952—Section 254(a)(2) [8 U.S.C. 1284].

ON BEHALF OF CARRIER: John A. Mundell, Jr., Esquire
3266 Penobscot Building
Detroit, Michigan 48226

This matter involves an administrative penalty of \$500, \$1,000 mitigated to the extent of \$500, which the District Director at Detroit has ordered imposed on the vessel's agent, the International Great Lakes Shipping Co., for failure to detain the above-named Chinese alien crewman aboard the vessel at all times despite the fact that his conditional landing privileges had been withdrawn.

When the case was previously before us on August 7, 1969, by